UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

Deborah S. Hunt
Clerk

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Filed: July 06, 2020

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Mr. Lynn Lincoln Sarko
Mr. Christopher A. Seeger
Mr. David S. Stellings

Re: Case No. 19-2120, *Len Gamboa, et al v. Ford Motor Company*
Originating Case No. : 2:18-cv-10106

Dear Counsel,

The Court issued the enclosed Order today in this case.

Sincerely yours,

s/Ryan E. Orme
Case Manager
Direct Dial No. 513-564-7079

cc: Mr. David J. Weaver

Enclosure

No mandate to issue

No. 19-2120

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

LEN GAMBOA, et al.,	)	**FILED** Jul 06, 2020 DEBORAH S. HUNT, Clerk
Plaintiffs-Appellees,	)	
v.	)	O R D E R
FORD MOTOR COMPANY,	)	
Defendant-Appellant.	)	

Before: CLAY, ROGERS, and MURPHY, Circuit Judges.

On December 3, 2019, defendant Ford Motor Company (Ford) was ordered to show cause why its appeal should not be dismissed as taken from a non-final order. Ford responds, claiming that the district court's August 27, 2019 order, recharacterizing its motion to dismiss as a motion for reconsideration, is immediately appealable under the collateral order doctrine.

A district court's decision is appealable under 28 U.S.C. § 1291 if it "ends the litigation on the merits and leaves nothing for the district court to do but execute the judgment." *Catlin v. United States*, 324 U.S. 229, 233 (1945). The August 27 order has no such effect, "indeed, the order ensures that litigation will continue in the District Court." *Gulfstream Aerospace Corp. v. Mayacamas Corp.*, 485 U.S. 271, 275 (1988). Under the collateral order exception to the final judgment rule, *see Cohen v. Beneficial Indus. Loan Corp.*, 337 U.S. 541 (1949), an order that does not finally resolve the litigation is appealable under § 1291 if it conclusively determines the

disputed question, resolves an important issue completely separate from the merits, and is effectively unreviewable on appeal from a final judgment. *Gulfstream*, 485 U.S. at 276.

According to Ford, "[t]he whole problem is that the [district] court *refused* to issue such an order" on its motion to dismiss and instead "erroneously recharacterized [its] motion as a motion to reconsider the court's earlier denial of a motion to dismiss a *different* complaint with *different* claims asserted by *different* parties." Ford admits that it is challenging only the district court's refusal to allow it to seek dismissal of plaintiffs' new claims, and this "appeal seeks nothing more than an order requiring the district court to treat Ford's motion to dismiss as a motion to dismiss and to consider that motion on its merits." The August 27 order, however, does not resolve an important issue completely separate from the merits and, contrary to Ford's claim, it is reviewable on appeal from the final judgment.

Accordingly, this appeal is **DISMISSED** *sua sponte* for lack of jurisdiction.

ENTERED BY ORDER OF THE COURT

Deborah S. Hunt, Clerk